IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FIFTEENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 23214 of 2004

Between:

Kothuri Subba Rao, S/o.Venkateswarlu,
Ramakur Village, J.Panguluru Mandal, Prakasam District.

..... PETITIONER

AND

1 The Joint Collector, Prakasam District, Ongole.
2 The Revenue Divisional officer, Ongole, Prakasam District.
3 The Mandal Revenue Officer, J.Panguluru, Prakasam District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of Mandamus, directing the respondents herein to accept the Bank D.D.No.829516 for Rs.21,009/- dt.09-12-04 from the petitioner and order allotment of E.Cs for the month of December, 2004 by issuing the release order therefor and also for the subsequent months pending the orders to be passed by the 2nd respondent in respect of the petitioners' F.P.shop No.1 of Ramkurvillage, J.Pangulur Mandal, Prakasam District and to pass such other orders as this Hon'ble court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.I.GOPAL REDDY

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court at the admission stage made the following :

ORDER:

The 2nd respondent passed an order, dated 21.07.2004, suspending the authorization of the petitioner to run the Fair Price Shop. Aggrieved thereby, he preferred an appeal before the 1st respondent. He also filed an application for stay. The 1st respondent rejected the application for stay through his order, dated 03.08.2004. Aggrieved thereby, the petitioner filed W.P.No.14071 of 2004. The writ petition was allowed on 10.08.2004 and the order, dated 03.08.2004, passed by the first respondent was set aside. The petitioner was directed to be continued as Dealer till the 1st respondent disposes of the appeal itself. Thereafter, the 1st respondent passed an order, dated 19.11.2004, disposing of the appeal and remanding the matter to the second respondent. The same is challenged in this writ petition.

Heard learned counsel for the petitioner and learned Government Pleader for Civil Supplies.

The petitioner availed the remedy of appeal provided for under Clause 20 of the A.P.Public Distribution System Control Order, 2001. An appellate authority is vested with the power to confirm or set aside the order under appeal. The question of remanding the matter by the appellate authority would arise only when the order under appeal is set aside.

Through his order, dated 19.11.2004, the 1st respondent remanded the matter to the 2nd respondent. However, it is not indicated as to whether the order of suspension passed by the 2nd respondent is affirmed or set aside. A direction was issued to the 2nd respondent to dispose of the case within a period of two weeks, after giving a show-cause notice and reasonable opportunity to the petitioner. An observation is

made to the effect that the suspension is only an interim punishment. This Court finds that the disposal given by the 1st respondent to the appeal preferred by the petitioner does not accord with the spirit of the relevant provision or the general principles governing the exercise of appellate powers.

The petitioner was enabled to function as Fair Price Shop Dealer, pending disposal of the appeal. There is no plausible objection as to why the same arrangement cannot be continued till the 2nd respondent passes final orders.

Hence, the writ petition is disposed of directing that the petitioner shall be entitled to continue as Fair Price Shop Dealer till the 2nd respondent disposes of the case against the petitioner. The order of suspension, dated 21.07.2004, shall accordingly stand set aside. There shall be no order as to costs.

_____

15.12.2004

Note: Issue C.C. in two days

(B/o)

Jsu

To

1 The Joint Collector, Prakasam District, Ongole.
2 The Revenue Divisional officer, Ongole, Prakasam District.
3 The Mandal Revenue Officer, J.Panguluru, Prakasam District.

4 2CCs to the G.P.for Civil Supplies, High Court Buildings,

Hyderabad. (O.U.T)

5 2CD copies.